

REMARKS / DISCUSSION OF ISSUES

Claims 1-21 are pending in the application; claims 13-21 are newly added.

The applicants respectfully request the Examiner to acknowledge the claim for priority and receipt of certified copies of all the priority document(s).

Claims are amended for non-statutory reasons: to correct one or more informalities, remove figure label number(s), and/or to replace European-style claim phraseology with American-style claim language. No new matter is added.

The Office action objects to the Drawings, asserting that "Figures 1-3 should be labeled with descriptive legends such as MS (mobile station), GSN (Gigabyte System Network)" (Office action, page 2, first paragraph). The applicants respectfully disagree with this assertion.

The applicants respectfully note that FIG. 1 includes reference labels MS, GSN, and so on, and the specification clearly defines each of these labels. The applicants are unaware of a requirement that legends that describe each reference label or symbol must be included in the Drawings. The applicants respectfully request either a basis for requiring such a legend on each drawing, or a withdrawal of this objection.

The Office action objects to claims 9 and 12. Claim 9 is amended to be dependent on claim 8; and a second reference to 'a new data packet' is deleted from claim 12. Withdrawal of this objection is respectfully requested.

The Office action rejects claims 4 and 10 under 35 U.S.C. 112, second paragraph; claims 4 and 10 are correspondingly amended to correct the lack of antecedent basis. Accordingly, the applicants respectfully request the withdrawal of this rejection.

The Office action rejects claim 12 under 35 U.S.C. 101; claim 12 is correspondingly amended to recite a computer-readable medium as suggested in the Office action. Accordingly, the applicants respectfully request the withdrawal of this rejection.

The Office action rejects claims 1-2, 5, 8, and 10-12 under 35 U.S.C. 102(e) and claims 3 and 6 under 35 U.S.C. 103(a) over Loguinov (USPA 2003/0023746). The applicants respectfully traverse this rejection.

Loguinov fails to teach an indicator in a data packet that indicates whether the data packet is a new data packet or a re-sent data packet, as specifically claimed in each of the applicants' independent claims 1, 8, and 10-12.

The Office action asserts that Loguinov provides this teaching at paragraph 23, line 13 and paragraph 16, lines 1-3. The applicants respectfully disagrees with this assertion. At the cited text, Loguinov teaches:

"notation (x,y) in the FIGS. 4(a) and 4(b) represents a packet whose sequence number is x and whose testRTT\_sequence is y" (Loguinov, [0023] lines 12-14).

"FIG. 4(b) is a comparison time chart depicting the exchange of packets to overcome the loss of a control action packet in accordance with the present invention" (Loguinov, [0016] lines 1-3).

At the cited text, Loguinov does not reference an indicator that indicates whether the data packet is a new data packet or a re-sent data packet, and the Office action does not identify which feature of Loguinov is assumed to be such an indicator.

MPEP 707 states:

"In rejecting claims for want of novelty or for obviousness... the particular part relied on must be designated as nearly as practicable."

MPEP 706 states:

"The goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity."

The applicants respectfully maintain that the goal of prosecution has not been met under MPEP 706 because the Office has not clearly articulated its rejection so that the applicants could have the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity. If the remarks herein are not persuasive for determining that all claims are allowable in view of the prior art, the applicants respectfully request the issuance of another non-final Office action that clearly identifies the particular part relied upon in Loguinov for teaching an indicator that indicates whether the data packet is a new data packet or a re-sent data packet, so that the applicants have an opportunity to amend the claims and/or provide evidence of patentability of the claims as presented.

Loguinov also fails to teach sending a second confirmation message that is dependent upon whether a second data packet was sent with an indicator that the second data packet is a new data packet after receiving a first confirmation report that a first data packet was not received properly, as claimed by the applicants.

In Loguinov, a second NACK message is sent in response to receipt of a data packet with an updated testRTT sequence number, regardless of whether the data packet that contains this updated testRTT sequence number is a new data packet or a retransmitted data packet. In Loguinov, each NACK message includes the packet sequence number of the packet to be retransmitted, and responses to multiple NACK messages may be pending at any given time.

In the prior art to Loguinov, a time-out process is used to indicate that the transmitter hasn't responded to each NACK retransmission-request. Loguinov teaches that the receipt of an updated testRTT sequence number at the receiver serves to inform the receiver that a given NACK retransmission-request message was received at the transmitter. The receipt of any data packet that does not correspond to the retransmission-request, with this indication that the given retransmission-request message was received, serves to inform the transmitter that the response to the given NACK message must have been lost, and thus a repeated NACK retransmission-request message is warranted, without waiting for the expiration of a time-out period. This subsequently received data packet after sending the given NACK message may be a new data packet, or it may be a response to a different NACK retransmission-request message; in either case, Loguinov's repeated NACK retransmission-request message will be sent.

Because the Office action does not identify an element in Loguinov corresponding to an indicator that indicates whether the data packet is a new data packet or a re-sent data packet, and because Loguinov does not teach sending a second retransmission-request based on such an indicator of whether the data packet is a new data packet or a re-sent data packet, the applicants respectfully maintain that the rejections of claims 1-2, 5, 8, and 10-12 under 35 U.S.C. 102(e) and claims 3 and 6 under 35 U.S.C. 103(a) over Loguinov are unfounded, and should be withdrawn.

The Office action rejects claims 4, 7, and 9 under 35 U.S.C. 103(a) over Loguinov and Dottling et al. (USP 7,249,303, hereinafter Dottling). The applicants respectfully traverse this rejection.

Each of claims 4, 7, and 9 is dependent upon claim 1 or 8, and in this rejection, the Examiner relies upon Loguinov for teaching the elements of claims 1 and 8. As noted above, Loguinov fails to teach each of the elements of claims 1 and 8, and the applicants respectfully maintain that dependent claims 4, 7, and 9 are allowable for at least the same reasons as the independent claims. Accordingly, the applicants respectfully maintain that the rejection of claims 4, 7, and 9 under 35 U.S.C. 103(a) over Loguinov and Dottling is unfounded, and should be reversed.

In view of the foregoing, the applicants respectfully request that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

/Robert M. McDermott/  
Robert M. McDermott, Esq.  
Reg. 41,508  
804-493-0707  
for: Kevin C. Ecker  
Reg. 43,600

**Please direct all correspondence to:**  
Corporate Counsel – IP&S  
U.S. PHILIPS CORPORATION  
P.O. Box 3001  
Briarcliff Manor, NY 10510-8001  
914-332-0222